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on August 14, 2006

PATENT
Attorney Docket No.: 20093A-002100US

TOWNSEND and TOWNSEND and CREW LLP

By: Masha M. Martinenko
Masha M. Martinenko

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gerald P. Murphy et al.

Application No.: 09/301,380

Filed: April 27, 1999

For: NR-CAM GENE, NUCLEIC
ACIDS AND NUCLEIC ACID
PRODUCTS FOR
THERAPEUTIC AND
DIAGNOSTIC USES FOR
TUMORS

Customer No.: 20350

Confirmation No. 5494

Examiner: John B. Ashen

Technology Center/Art Unit: 1635

**PETITION RE FILING DATE
UNDER 37 CFR §1.53**

Box DAC
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Response to Request for Corrected Filing Receipt mailed on May 26, 2006, Applicants hereby petition to accord the original April 27, 1999 filing date to the subject application under 37 CFR §1.53. Please charge Deposit Account No. 20-1430 in the amount of \$130 (37 C.F.R. 1.17 §1.17(h)) for the petition fee.

The subject application was filed in the Patent and Trademark Office on April 27, 1999 pursuant to 37 C.F.R. 1.53(b) with the specification as prescribed by 35 U.S.C. § 112 containing a description pursuant to §1.71, claims pursuant to §1.75 and drawings required by §1.81(a). The Office accorded the application a filing date of April 27, 1999. Attached herewith is a copy of the Filing Receipt mailed on July 29, 1999, indicating the original filing date of April 27, 1999, and a copy of the returned postcard also indicating the original filing date of April 27, 1999.

On July 30, 1999, the Office mailed a Notice to File Missing Parts requiring filing of an oath or declaration in compliance with 37 CFR § 1.63. The application became abandoned due to unintentional delay in responding to the Notice to File Missing Parts. Applicants filed a Renewed Petition under 37 C.F.R. §1.137(b) on June 15, 2001 together with the proper Declaration and Power of Attorney. The Petition was granted and the Declaration accepted on July 19, 2001, and the application proceeded to examination. A copy of the July 19, 2001 Decision on Renewed Petition is attached herewith.

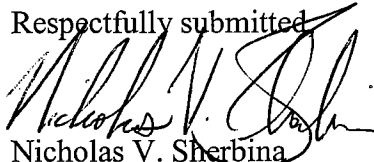
Subsequently during prosecution of the application and without any notification, the Office changed the original filing date of April 27, 1999 to June 15, 2001, the date on which Applicants filed the Renewed Petition under 37 C.F.R. §1.137(b). Based on the above, Applicants respectfully believe the original correct filing date was changed in error and may be a clerical mistake.

CONCLUSION

In view of the foregoing, Applicants respectfully request that this petition be granted and the original filing date of April 27, 1999 be accorded to the subject application.

This application was allowed on February 28, 2006 and the Issue Fee was paid on May 25, 2005, Applicants therefore also respectfully request that the patent issues with the original filing date of April 27, 1999.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (206) 467-9600.

Respectfully submitted

Nicholas V. Sherbina
Reg. No. 54,443

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San Francisco, California 94111-3834
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Fax: 415-576-0300
Attachments (3)
NVS:mmm
60835136 v1

FILING RECEIPT

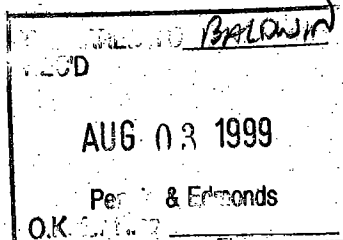


UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| APPLICATION NUMBER | FILING DATE | GRP ART UNIT | FIL FEE REC'D | ATTORNEY DOCKET NO. | DRWGS | TOT CL | IND CL |
|--------------------|-------------|--------------|---------------|---------------------|-------|--------|--------|
| 09/301,380 | 04/27/99 ✓ | 1643 ✓ | \$0.00 | 8511-021-999 | 27 | 21 | 12 |

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PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711



COPY

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts of Application" ("Missing Parts Notice") in this application, please submit any corrections to this Filing Receipt with your reply to the "Missing Parts Notice." When the PTO processes the reply to the "Missing Parts Notice," the PTO will generate another Filing Receipt incorporating the corrections (if appropriate).

Applicant(s) GERALD P. MURPHY, RESIDENCE NOT PROVIDED.

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 07/29/99

TITLE

NR-CAM GENE, NUCLEIC ACIDS AND NUCLEIC ACID PRODUCTS FOR THERAPEUTICS
AND DIAGNOSTIC USES FOR TUMORS ✓

NO'S 2

PRELIMINARY CLASS: 435

DATA ENTRY BY: WILSON, TAMMY

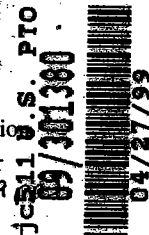
TEAM: 06 DATE: 07/29/99

(See reverse for new important information)

COPY

Express Mail No. EM-061 020 777-US First Class Mail ()
Date Mailed April 27, 1999
Ser. No. To Be Assigned Filed 4/27/99
Inventor Murphy et al.
For NC-CAM GENE, NUCLEIC ACIDS AND NUCLEIC ACID PRODUCTS
FOR THERAPEUTIC AND DIAGNOSTIC USES FOR TUMORS

- | | |
|--|---|
| <input type="checkbox"/> Affidavit/Declaration | <input type="checkbox"/> Fee Address Indication Form |
| <input type="checkbox"/> Amendment | <input checked="" type="checkbox"/> Fee Calculation <u>PATENT APPLICATION</u> |
| <input checked="" type="checkbox"/> Application <u>135 Pages + Abstract + 5 pp ToFC</u> | <input type="checkbox"/> Issue Fee Transmittal <u>FEE TRANSMITTAL</u> |
| <input checked="" type="checkbox"/> <u>21</u> Claims <u>26</u> Drawings - <u>27</u> Sheets | <input type="checkbox"/> Letter |
| <input type="checkbox"/> Appeal, Notice of | <input type="checkbox"/> Oral Hearing Req./Confirm. |
| <input type="checkbox"/> Assignment | <input type="checkbox"/> Petition to Extend Time |
| <input type="checkbox"/> Brief (in triplicate) | <input type="checkbox"/> Pet. under 37 C.F.R. |
| <input checked="" type="checkbox"/> Declaration & Power of Attorney - <u>unexecuted</u> | <input type="checkbox"/> Power of Attorney |
| <input type="checkbox"/> Design Application | <input type="checkbox"/> Associate <u> </u> w/Revocation |
| <input type="checkbox"/> Disclaimer | <input checked="" type="checkbox"/> Sequence Listing w/Computer |
| <input type="checkbox"/> Disclosure Statement | <input type="checkbox"/> Readable and Paper Copies (19 |
| <input type="checkbox"/> w/refs. <input type="checkbox"/> w/o refs. | <input type="checkbox"/> Small Entity Statement |
| <input type="checkbox"/> Drawings Formal | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Sheets <input type="checkbox"/> Figures | <input type="checkbox"/> Transmittal Letter |



OK

Other: Utility Patent Application Transmittal
Transmittal of Sequence Listing + Statement 37 CFR 1.821
File No. 8511-021-499 Sender: BALDWIN



Paper No. 11

COPY

COPY MAILED

TOWNSEND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

JUL 19 2001

OFFICE OF PETITIONS
A/C PATENTSIn re Application of
Murphy, et al.
Application No. 09/301,380
Filed: April 27, 1999
Attorney Docket No. 20093A-00210DECISION ON
RENEWED PETITION

This is a decision on the Renewed Petition under 37 CFR 1.137(b), filed on June 15, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the Notice to File Missing Parts of Application mailed July 30, 1999. This Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 1, 1999. A Notice of Abandonment was mailed on May 2, 2000. On April 30, 2001, petitioner filed a petition to revive under 37 CFR 1.137(b). However, this petition was dismissed in a decision mailed on May 10, 2001.

With the instant petition, petitioner filed an executed Declaration and Power of Attorney that is in compliance with 37 CFR 1.64. The declaration includes the citizenship, residence, and mailing address of the legal representative, Mrs. Murphy. Petitioner has met all other requirements for a grantable petition under 37 CFR 1.137(b).

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy